

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.8129 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	No
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	No
5	Whether it is to be circulated to the civil judge ?	No

THE BHARUCH DISTRICT VEGETABLES AND FRUITS
PRODUCERS CO.OP SOCIETY LIMITED - Petitioner(s)

Versus

MATHURBHAI (KALIDAS) PUNJABHAI VASAVA-Respondent(s)

Appearance :

MR MTM HAKIM for Petitioner(s) : 1,

MR BS PATEL for Respondent(s) : 1,

MRS RANJAN B PATEL for Respondent(s) : 1,

CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 30/07/2007

ORAL JUDGMENT

(1) RULE. Learned advocate for the respondent waives service. The petition is taken up for final hearing and disposal today.

- (2) The petitioner Co-operative Society preferred Lavad Suit No.1310 of 1994 before the Board of Nominees, Vadodara against the respondent and 10 other defendants. It appears that except for respondent no other defendants put in appearance or contested the suit. Though the respondent appears to have retained an advocate nothing further was done by the advocate and hence, the Lavad Suit proceedings remained pending from 1994 till 2003. On 11.06.2003 the Board of Nominees allowed the suit and vide Exh.66 an award was drawn up for a sum of Rs.15,95,398.61 along with interest @ 18%. On 20.04.2005 the petitioner moved Special Darkhast No.18 of 2005 before the Court of Civil Judge (S.D.), Bharuch for an amount of Rs.47,60,203.61. The process of Darkhast was served on respondent on 29.04.2005.
- (3) On 17.04.2006 the respondent preferred Restoration Application No.8 of 2006 before the Board of Nominees accompanied by an

application Exh.5 for stay of the award and the Darkhast proceedings. Ad-interim stay as prayed for was granted by Board of Nominees. After hearing the parties on 19.01.2007 the Board of Nominees modified the earlier order and granted conditional stay subject to the respondent depositing a sum of Rs.15,00,000/- on or before 05.02.2007.

- (4) The respondent carried the matter in revision being Revision Application No.24 of 2007 before Gujarat State Co-operative Tribunal, Ahmedabad. Vide order dated 21.02.2007 the Tribunal stayed operation of the order made by Board of Nominees on the condition that the respondent deposits a sum of Rs.2,00,000/-. After hearing both the sides vide impugned order dated 02.03.2007 the Tribunal has partly allowed the revision application quashing the order made by Board of Nominees subject to the condition that the respondent deposits a total sum of Rs.4,00,000/- in lieu of the order of

depositing Rs.15,00,000/- made by Board of Nominees. It is this order dated 02.03.2007 which is under challenge in this petition.

- (5) Upon issuance of notice Mr.B.S.Patel, learned advocate appears on behalf of the respondent and makes a statement, under instructions, that the respondent withdraws application Exh.5 moved by the respondent before the Board of Nominees moved along with Restoration Application No.8 of 2006 as, admittedly, no reasons are assigned by the Tribunal for modifying the order made by Board of Nominees.
- (6) In the result, it is not necessary to record in detail the submissions of both the sides or discuss the merits of the controversy between the parties. Suffice it to state that the impugned order dated 02.03.2007 made by the Tribunal in Revision Application No.24 of 2007 cannot be sustained and is quashed and set aside. Similarly, the respondent having withdrawn application Exh.5 in Restoration

Application No.8 of 2006 the order dated 19.01.2007 made by the Board of Nominees also does not survive and stands quashed and set aside in entirety.

(7) The petition stands allowed in the aforesaid terms. Rule made absolute. There shall be no order as to costs.

Sd/-
[D.A. MEHTA, J]

Bhavesh*